IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.455 OF 2005
IN
ARBITRATION PETITION NO.158 OF 2005

Jaideep Daooji Mehrotra .. Appellant

v/s.

Tahir Properties Limited .. Respondent

Mr.C.U.Singh with Mr.S.C. Mahimtura i/by M/s.Mahimtura & Co. for the appellant.

Mr.Virendra Tulzapurkar, senior counsel with Mr.Anil Menon for the respondent.

CORAM : R.M. LODHA AND
J.P. DEVADHAR, JJ.

DATED : 14th June, 2005

P.C.

Heard.

2. The learned Single Judge while disposing of the arbitration petition filed under section 9 of the Arbitration and Conciliation Act, 1996 (for short 'Act of 1996') observed that the relief prayed for by way of petition under section 9 of the Act of 1996 can be claimed by filing an application before the Arbitral Tribunal.

3. We are unable to figure out the reason for filing this appeal and the appellant not making the application under section 17 of the Act of 1996 before the Arbitral Tribunal. Mr.C.U.Singh, the learned counsel for the appellant submits that

application for interim relief under section 17 of the Act of 1996 could only be entertained provided the opponent gives consent for its consideration by the Arbitral Tribunal. In the light of the observation made by the learned Single Judge, it was not necessary. In any case, Mr.Virendra Tulzapurkar, the learned senior counsel for the respondent submitted before us that the respondent has no objection if the present appellant applies for interim relief before the Arbitral Tribunal under section 17 of the Act of 1996, though the respondent shall contest the same on merits for grant of such interim relief.

4. For what we have said above, we are satisfied that the appeal does not deserve to be admitted. The appellant shall be at liberty to apply for an interim relief before the Arbitral Tribunal and upon such application being made, the Arbitral Tribunal shall consider the same on merits in accordance with law.

5. Appeal is disposed of accordingly.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)